

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
BOYSIN RALPH LORICK;)	Case No. 1-16-45645-nhl
CYNTHIA THERESA LORICK,)	
)	
Debtors.)	
)	

**LIMITED OBJECTION TO SALE OF DEBTORS' REAL PROPERTY AND
RESERVATION OF RIGHTS REGARDING THE SAME**

Wells Fargo Bank, as Trustee for the registered holders of Sovereign Commercial Mortgage Securities Trust, 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1 (the "Lender"), files this (a) limited objection to the sale of the Debtors' real property at 3126 Coney Island Ave, Brooklyn, New York, and (b) reservation of rights regarding the same, and respectfully shows the Court as follows:

1. On June 9, 2017, the Debtors filed their Motion for an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (i) Approving Bidding Procedures and Certain Terms and Conditions of Sale, (ii) Scheduling the Deadline for an Auction and Hearing Date, and (iii) Authorizing Sale of Real Property "As Is" and "Where Is", Free and Clear of all Liens, Claims, Encumbrances, and Interests [ECF No. 67] (the "Sale Motion").

2. On July 25, 2017, the Court entered its Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (i) Approving Bidding Procedures and Certain Terms and Conditions of Sale, (ii) Scheduling the Deadline for an Auction and Hearing Date, and (iii) Authorizing Sale of Real Property "As Is" and "Where Is", Free and Clear of All Liens, Claims, Encumbrances, and Interests [ECF No. 77] (the "Bidding Procedures Order"). The Bidding Procedures Order provides for the sale of the Property pursuant to certain bidding procedures (the "Bid Procedures") attached as

Exhibit A to the Bidding Procedures Order. Bidding Procedures Order at 1-2. The Bid Procedures provide that, among other things, parties making qualified bids shall provide “proof of financial ability consummate the purchase of the Property.” Bid Procedures at 4. The Bid Procedures provide that the Debtors will:

[i]dentify the highest or otherwise best offer (the “Successful Bid”); (c) determine which Qualified Bid is the next highest or otherwise best offer or collection of offers (the “Backup Bid”) for the Property; and (d) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of (i) the identity of the bidder whose bid was determined to be the Successful Bid (the “Successful Bidder”), (ii) the amount of other material terms of the Successful Bid, and (iii) the identity of the party or parties submitted the Backup Bid (the “Backup Bidder”).

Id. at 5. Additionally, the Bid Procedures provide that

[t]he Debtors will seek an order of the court approving the Sale to the Successful Bidder (the “Sale Hearing”). In advance of the Sale Hearing, the Debtors shall complete and execute all agreements, instruments, or other documents necessary to bind the Successful Bidder to close on the sale of the Property. The Debtors shall also complete all agreements necessary with the Backup Bidder in the event the Successful Bidder does not consummate the purchase of the Property.

Id. at 6-7.

3. On August 22, 2017, less than 24 hours prior to the Auction, the Debtors filed their Debtors’ Motion for an Order (1) Adjourning the Auction Sale of Property Known as 3126 Coney Island Avenue, Brooklyn, New York, Scheduled for August 22, 2017, *Ex Parte* or (2) Fixing Method of Service and Shortening Notice Period for a Hearing on the Motion to Adjourn Auction Sale, and (3) Related Relief [ECF No. 80] (the “Motion to Adjourn”). Later that same day, the Court held a hearing on the Motion to Adjourn and entered its order denying the Motion to Adjourn [ECF No. 82].

4. On August 22, 2017, the Debtors, through their counsel, conducted the Auction. Prior to the commencement of the Auction, Debtors’ counsel announced that there were four qualified bidders, including Mohammad Choudhary, Soleyman Ghalchi, and Jack Geula. Report of

Public Sale of the Real Property Known as 3126 Coney Island Avenue, Brooklyn, New York [ECF No. 83] (the “Auction Report”) ¶¶ 3, 4. Counsel for the Lender stated its objection to Mr. Choudhary’s status as a qualified bidder and reserved Lender’s rights regarding the same. At the Auction, the highest bid was made by Mr. Choudhary at \$7.4 million. Id. ¶ 9. The second highest bid was made by Soleyman Ghalchi at \$7.35 million. Id. ¶ 14. Although not noted in the Auction Report, the next highest bidder was Jack Geula, who had last bid \$6.95 million. Mr. Ghalchi made the next bid after Mr. Geula at \$7.0 million. No parties other than Mr. Choudhary and Mr. Ghalchi bid after Mr. Geula’s \$6.95 million bid.

5. After the Auction, on August 22, 2017, the Debtors, through their counsel, filed Auction Report. Although the Auction Report identifies the highest bid and second highest bid at the Auction, the Auction does not identify the Successful Bid/Bidder or Backup Bid/Bidder.¹ Counsel for the Lender understands that the Debtors have identified Mr. Choudhary as the Successful Bidder.

6. Counsel for the Lender has asked multiple times for proof of Mr. Choudhary’s ability to consummate a sale at \$7.4 million, both at the Auction and subsequently. To date, no information has been provided demonstrating Mr. Choudhary’s financial ability to consummate the purchase of the Property at \$7.4 million.² Given the absence of proof of Mr. Choudhary’s financial ability to consummate the purchase of the Property, the Lender objects to any selection of Mr. Choudhary as the Successful Bidder.³ Indeed, it appears that the Debtors should not have allowed Mr. Choudhary to bid at the Auction, as Mr. Choudhary did not provide “proof of financial ability

¹ The Auction Report provides: “The Debtors have not reviewed and qualified the first and second highest bids at the time of this writing.” Id. ¶ 17.

² Unauthenticated screenshots of the balances of bank accounts apparently belonging to companies controlled by Mr. Choudhary that were attached to the Motion to Adjourn show no more than \$1,850,000 in the bank accounts.

³ Additionally, the Lender has concerns regarding Mr. Choudhary’s relationship with the Debtors given his role described in the Motion to Adjourn.

to consummate the purchase of the Property.” Bid Procedures at 4. Furthermore, the Lender objects to entry of any order that does not designate a Backup Bidder and provide that, consistent with the Bid Procedures, the Debtors shall attempt to close a sale with the Backup Bidder if the sale to the Successful Bidder does not close.

7. Notwithstanding the foregoing, the Lender does not oppose entry of an order requiring the Debtors to sell the Property pursuant to the Sale Motion and Bid Procedures identifying Mr. Galchi as the Successful Bidder or Mr. Guela as the Back-Up Bidder.⁴

Dated: August 24, 2017

Respectfully submitted,

/s/ Colin M. Bernardino

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(Admitted *pro hac vice*)

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⁴ If satisfactory “proof of [Mr. Choudhary’s] financial ability to consummate the purchase of the Property” is provided at or before the Sale Hearing and the Debtors agrees to otherwise seek entry of an order complying with the Bid Procedures, including the designation of a Backup Bid, the Lender may withdraw its objection. Given the developing state of facts, the Lender reserves its rights to raise additional objections at the Sale Hearing.

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2017, a true and correct copy of the foregoing Motion was filed electronically with the Court's CM/ECF filing system which in turn will generate an electronic notice of filing to all those who have requested or consented to electronic service in this chapter 11 case.

I further certify that the on August 24, 2017, a true and correct copy of the foregoing Motion was served upon the parties listed below, via First Class US Mail, postage prepaid.

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Dated: August 24, 2017

/s/ Colin M. Bernardino
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